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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,448	12/30/2003	Jeff Ondra	1671-0285	2398
28/078 7590 03/17/2009 MAGINOT, MOORE & BECK, LLP CHASE TOWER 111 MONUMENT CIRCLE SUITE 3250 INDIANAPOLIS, IN 46204				
EXAMINER				
BLANCO, JAVIER G				
ART UNIT		PAPER NUMBER		
3774				
MAIL DATE		DELIVERY MODE		
03/17/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* JEFF ONDRLA, GERALD ROSS WILLIAMS, JR.  
JOSEPH PATRICK IANNOTTI, PAUL GIBBONS,  
AND JAMES EDWARD CLARK

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Application No. 10/748,448  
Technology Center 3700

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Mailed: March 17, 2009

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Before KRISTA ZELE *Deputy Chief Appeals Administrator*  
ZELE, *Deputy Chief Appeals Administrator*.

**ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER**

This application was electronically received by the Board of Patent Appeals and Interferences on February 26, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**EXAMINER'S ANSWER**

**GROUND'S OF REJECTION TO BE REVIEWED ON APPEAL**

A review of the file finds that the grounds of rejection to be reviewed on appeal of the claims as provided in the Examiner's Answer mailed August 15, 2008 under the heading "Grounds of rejection to be Reviewed on Appeal" is either unclear or is not consistent with the grounds of rejection of claims set forth in the last Office action of record. The grounds of rejection to be reviewed on appeal as provided in the Examiner's Answer must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Furthermore, the examiner must provide a clear statement of whether examiner agrees or disagrees with the statement of grounds of rejection to be reviewed as set forth in the brief and an explanation of any disagreement. *See also Manual of Patent Examining Procedure* (MPEP) § 1207.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

A review of the Examiner's Answer finds that it is unclear what rejected claims are on appeal as compared to the Appeal Brief and/or the Examiner's Answer does not clearly address differences between rejections set forth in the Examiner's Answer and those addressed in the brief. Specifically, the Examiner's Answer indicates that the rejection of claims 19-26 were neither withdrawn by the Examiner nor discussed in the Examiner's Answer. All claims on appeal must be discussed in the Examiner's Answer.

Clarification of the record is required for all Grounds of rejection to be reviewed on appeal for all claims.

**CONCLUSION**

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) vacate the Examiner's Answer mailed August 15, 2008;

2) generate a new Examiner's Answer setting forth the correct Grounds of rejection to be reviewed on appeal and to correct other sections of the Answer as may be required;

3) include the approval of the TC Director or his/her designee (as required for any new grounds of rejection); and

4) for such further action as may be required

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/MTV/ak

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